

- Reviewing compliance status with the entity's Records Management System and OMB's procurement requirements.
- Ensure adequacy of the entity's Continuation of Operations Plan (COOP).

The loss control committee should meet at least quarterly at a regular time and date, with attendance mandatory. Each meeting should have a fixed agenda that is sent to the members about one week before the meeting. Following the agenda closely will keep the meeting moving. Meetings generally should not last more than one hour. A special meeting could be held or an ad hoc committee formed to address a complicated issue.

The agenda for the meeting can be simple:

- Call to order
- Roll call by the secretary
- Introduction of any visitors, if allowed
- Reading and approval of minutes of the previous meeting
- Review of any policies issued since the last meeting
- Taking care of unfinished business
- Review of most recent Risk Management Division Bulletin
- Review of status of Risk Management Fund and Risk Management Workers Compensation Program applications for discounts
- Review of any accidents occurring and preventive measures taken since the previous meeting
- Discussion of safety inspections and recommendations
- Addressing new business
- Adjournment

Because the minutes of the loss control committee meetings can be used to document annual compliance with the requirements for the Risk Management Fund Contribution Discount Program, the meeting minutes and tapes of the executive sessions of the meeting should be kept for one calendar year following the date of the meeting.

Loss control committee meetings are considered by North Dakota law to be open meetings and may be closed to the extent that they deal with Risk Management Fund incident reports, investigation reports, or Risk Management Fund records of a specific pending or reasonably predictable claim.

The purpose of holding an executive session is fundamental to an effective loss control program. This is the time during a loss control committee meeting that the members can discuss the entity's incidents, accidents, claims and lawsuits freely to determine the root cause of the incident or

possible trends. The discussion held during an executive session is exempt from the open records law—in other words, members cannot be questioned about the information they discuss during an executive session. This is important because the members may discover through the review such things as a trend in certain types of incidents; that an incident was caused because an employee was not trained properly; or that an incident was caused because an outdated policy was in place. This is the loss control committee's chance to get to the nitty-gritty of each incident and build awareness within the group of what incidents may be costing the State. Once all of the incidents are discussed, the executive session can be ended properly.

If it was decided in the executive session that, for example, a policy must be changed for a specific person to monitor a portion of a sidewalk and to apply ice melt when certain conditions arise, that change in policy should be discussed and documented in the reopened portion of the meeting — without referencing specific claims or incidents. Of course, members should be assigned to carry out these actions and report on the progress in future meetings. Remember that the details of the incidents discussed in executive session need to stay there – do not repeat the details (names of injured, numbers of types of claims, etc.) in the open session – that will cause that incident to become an open record. Keep the record 'general' when discussing the appropriate 'actions to be taken'. Also, remember, loss reports distributed to the loss control committee members for discussion should be collected and shred after the meeting.

The following summary of N.D.C.C. §§ 32-12.2-11 and 12 and N.D.C.C. ch. 44-04 addresses the open records/open meetings issues affecting state entity loss control committees and subcommittees. It is not intended to address open records/open meetings issues affecting other state committees and subcommittees, nor is it intended to address political subdivisions or organizations. State employees should read applicable laws for more specific information on open records/open meetings.

The attorney assigned to represent each state entity will be able to answer any questions state employees may have concerning open records/open meetings issues.

## **Records**

**How do I determine if something is a “record”?**

***Recorded information + public entity + public business = “record.”***